

May 13, 2013



Talbot County Planning Commission

Final Decision Summary

Wednesday, April 6, 2013 at 9:00 a.m.

Bradley Meeting Room, Talbot County Courthouse

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
William Boicourt
Michael Sullivan
John Trax
Paul Spies—Absent

Staff:

Sandy Coyman, Planning Officer
Mary Kay Verdery, Assistant Planning Officer
Brett Ewing, Planner I
Mike Mertaugh, Assistant County Engineer
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:00 a.m. He announced that Paul Spies was absent and to receive a positive vote, three affirmative votes would be required. Therefore, with one Commissioner being absent, the Commission's standard policy is to offer applicants the opportunity to have their matter rescheduled for a later meeting without prejudice. No applicants chose to reschedule. The May Planning Commission meeting will be located at the Talbot County Community Center, please make a note and tell all the regular attendees.

2. Decision Summary Review—March 6, 2013—The Commission noted the following corrections to the draft decision summary:

- a. Line 110, need an "s" on the end of Water, Waters Land Surveying.
- b. Line 168 Commissioner Trax questioned where it indicates damage by more than 50%, should that be 51% or more? Ms. Verdery responded that any substantial damage is defined as damage conditions that are equal to or exceeds 50%, for example 50.1% is enough. Mr. Trax stated that should be clarified.
- c. Line 251, add apostrophe, Ad Hoc Committee's.
- d. Line 262, Bay should be capitalized since it refers to the Chesapeake Bay.
- e. Line 271, Commissioner Boicourt moved to table Comprehensive Water Sewer Plan Resolutions 1-4 until next month when the resolutions would be available for the Commission to review; seconded by Commissioner Spies. The motion carried unanimously.
- f. Line 304, correct to read, "recommended".
- g. Line 313 remove part of underline that should not be there.

Commissioner Boicourt moved to accept the Planning Commission Draft Decision Summary for March 6, 2013 as amended; Commissioner Trax seconded. The motion carried unanimously.

3. Old Business—None was brought before the Commission.

4. New Business

- a. Administrative Variance to expand existing legal nonconforming structure (File #A183) Gary and Nancy Gordon—23980 Oak Point Road, Bozman, MD 21612, Map 31, Grid 24, Parcel 22A, Zone Rural Conservation, Bryan Ausley, Agent.

Brett Ewing presented the staff report for an administrative variance to expand a legal nonconforming structure located in the 100 foot shoreline development buffer. The applicant proposes to expand (47 square feet) and convert an existing garage to a mudroom and study. The expansion will occur completely over existing driveway creating no new lot coverage. Also, the applicant proposes to remove 55 square feet of gross floor area and lot coverage resulting in a net decrease of 55 square feet of lot coverage and a net increase of 53 square feet of gross floor area. The proposed conversions and expansions comply with lot coverage and will be located no closer to mean high water than the existing dwelling at 38 feet.

The lot coverage of the entire parcel is a legal nonconformity as it exceeds the required 15%. The proposal is code compliant as it is reducing the nonconformity. After line revision L1167 is approved and recorded, the subject site (revised tax parcel 22A) will be 4.873 acres in size and the site will comply with the lot coverage standards.

Minor Line Revision L1167 proposes to increase the subject property from 2.459 acres to 4.873 acres. In accordance with conversions with the Office of Environmental Health, the line revision must be recorded prior to issuing of a building permit for the proposed construction.

The Planning staff recommendation includes the following:

1. The applicant shall make an application to the Department of Planning and Permits and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall obtain approval and record minor line revision project number L1167 prior to the issuance of a County building permit for the proposed construction.
3. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Planning Office's "Notice to Proceed".

Bryan Ausley appeared as agent for the Gordons. He stated the project was as outlined in the Staff Report. There would be no additional plumbing, just some adjustments to the existing plumbing.

Commissioner Hughes asked for comments from the public and there were none. Commissioner Boicourt recommended to grant the motion for a positive recommendation for the administrative variance for Gary and Nancy Gordon, 23980 Oak Point Road, Bozman, Maryland, with staff conditions. Commissioner Sullivan seconded the motion. The motion carried unanimously.

- b. Major site plan for parking area and driveway entrance and change of use (File #533)—Tilghman Watermen’s Museum—6031 Tilghman Island Road, Tilghman, MD 21671, Map 44A, Parcel 85, Zone Village Center/Critical Area (Limited Development Area), Chris Waters, Waters Land Surveying, Agent.

Brett Ewing presented the staff report for the proposed renovation and conversion of an existing residential structure to a museum (Community and Cultural Facility). Previous site plan number 489 approved by the Planning Commission expired on August 10, 2012. The applicant resubmitted the site plan. The current proposal has relocated the driveway south of the structure. The parking area now faces the north.

Should the Commission approve the site plan, the Planning staff recommends the following:

1. The applicant address all of the issues mentioned above and the Technical Advisory Committee’s comments enclosed. Technical Advisory Committee met with the applicant on March 13, 2013.
2. The applicant shall make an application to and follow all of the rules, procedures, and construction timelines as outlined by the Department of Permits and Inspections regarding new construction.
3. The applicant shall commence construction on the proposed project within a one (1) year period from the date of the “Notice to Proceed”.
4. Screening shall be provided in the form of planting vegetation along the parking area in the rear of the property.

Chris Waters, Waters Professional Land Surveying appeared with Mike Richards President of The Watermen’s Museum, and Hall Kellog, former President of the Museum. Originally there was an issue of relocating an existing power pole for the old driveway location but reconsidered location when they found out the cost would be \$10,000. Currently there are no sidewalks along the road. Bike racks are now added to the site. The trees and shrubbery, lower plant species now being used allow the house to be seen. Commissioner Boicourt stated the parking location is better as the parking lot will be difficult to see from the public road. Commissioner Trax stated that the revised ingress and egress to the parking lot was an improvement. There was no public comment. Commissioner Trax moved to approve the major site plan for Tilghman Watermen’s Museum, Inc., Tilghman Island Road, with staff conditions. Commissioner Sullivan seconded. The motion carried unanimously.

- 146
147 c. Preliminary Major Single Lot Subdivision (File #S1053)—Nancy Marvel
148 Bradley—Bambury Road, Trappe, MD 21673, Map 59, Grid 3, Parcel 38, zoned
149 Agricultural Conservation, Chris Waters, Waters Land Surveying, Agent.
150

151 Brett Ewing presented the staff report for creation of one (1) lot of 2.87 acres with
152 access from a proposed 40 foot wide private road right of way (Granny Lane).
153 45.80 acres would be encumbered with reserved land to satisfy the cluster
154 subdivision requirements. The remaining development rights are assigned to
155 revised tax parcel 38.
156

157 Should the Commission approve the preliminary plat, the Planning staff
158 recommends the following condition:
159

- 160 1. The applicant address all of the issues mentioned above, and the Technical
161 Advisory Committee's comments of Planning and Permits, Department of
162 Public Works, Environmental Health Department, Talbot Soil
163 Conservation District and the Environmental Planner prior to final plat
164 submittal.
165

166 Chris Waters noted the relocation of the existing driveway and private road did
167 not align, so a slight modification was proposed to accommodate a realignment
168 locating the road more on lot 3. The intention of the subdivision is to provide a
169 lot to Ms. Bradley's granddaughter. There were no comments from the public.
170

171 Commissioner Boicourt moved to grant preliminary and final approval of the
172 single lot subdivision with private road for Nancy Marvel Bradley, Bambury
173 Road, Trappe, MD, with staff conditions; seconded by Commissioner Trax. The
174 motion carried unanimously.
175

- 176 d. Preliminary Major Three (3) Lot Subdivision (File #M1149)—Peter L. Councell
177 and Karaleen J. Councell—MD Route 328 (Matthewstown Road), Easton, MD
178 21601, Map 19 and 27, Grid 21 and 3, Parcel 34 and 25, Zone Agricultural
179 Conservation, Bill Ewald, McCrone, Inc., Agent.
180

181 Brett Ewing presented the staff report for a non-critical area three (3) lot
182 subdivision with private road. All lots will have access from a proposed 40 foot
183 wide private road right of way (Guinea Ridge Drive). The remaining development
184 rights are assigned to the parent parcel. A portion of lot 4 does not meet the
185 minimum width requirements.
186

187 Should the Commission approve the site plan, staff recommends the following
188 condition:
189

- 190 1. Address the March 13, 2013 Technical Advisory Committee comments of
191 Planning and Permits, Department of Public Works, Environmental Health

Department, Talbot Soil Conservation District and the Environmental Planner prior to final plat submittal.

Commissioner Boicourt questioned if it were possible to approve this subdivision if lot 4 is too narrow. Mr. Ewing explained only a portion was too narrow. The lot still had a usable building area even though the building envelopes were not contiguous.

Bill Ewald, McCrone, Inc. appeared with Mr. & Mrs. Peter Councell.

Commissioner Boicourt questioned the drainage issue to the west of the subject lands discussed at the sketch review. Mr. Mertaugh felt this subdivision will not cause any additional runoff impacts. Mr. Ewing recommended the Commission require lot 4 building envelope be contiguous to avoid confusion for a future purchaser. Either moving property line on Lot 4 west or removing lower half of building envelope, the option is in the applicant's hands. There were no comments from the public.

Commissioner Boicourt moved to grant Peter Councell, Councell's Guinea Ridge, application for preliminary plat approval provided the staff conditions are being complied with, and the lot 4 building envelope be amended so it is contiguous prior to final submittal, seconded by Commissioner Sullivan. The motion carried unanimously.

- e. Preliminary Major 3 Lot Subdivision (File #M1151)—Robert L. Kennedy, c/o Kelly Kennedy—Howell Point and Crosiadore Road, Trappe, MD 21673, Map 58, Grid 15, Parcel 73, zoned Rural Conservation/Western Rural Conservation, Elizabeth Fink of Fink Whitten and Associates, LLC, Agent.

Brett Ewing presented the staff report for a three (3) lot critical area subdivision with a private road. All lots will have access from a proposed 40 foot wide private road right of way (Hunter Lane). The remaining Rural Conservation and Western Rural Conservation development rights will remain with the parent parcel.

Should the Commission approve the site plan the Planning staff recommends the following condition:

1. The applicant address the March 13, 2013 Technical Advisory Committee comments of Planning and Permits, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District, Environmental Planner and the Critical Area Commission prior to final plat submittal.

Ms. Fink appeared with Kelly Kennedy. Ms. Fink stated they are in the process of making the revisions requested by staff in the last Technical Advisory meeting and she believed there were no additional issues. Commissioner Boicourt asked about afforestation. Ms. Fink stated that a forest preservation plan was prepared

which details a time line so when a lot is developed the forestation is planted.
That will be broken out on the final plats. There were no public comments.

Commissioner Trax moved to grant preliminary and final approval of the three (3) lot subdivision with private road of Robert L. Kennedy, Howell Point and Crosiadore Road, with staff comments being complied with, seconded by Commissioner Boicourt. The motion carried unanimously.

f. Talbot County, Comprehensive Water Sewer Plan resolutions:

Ray Clarke, Talbot County Engineer, presented four (4) applications for amendment of the County's comprehensive water and sewer plan. The County Council introduced resolutions for all four:

1. Resolution 203—the Easton Airport sewer to update comprehensive water and sewer plan.
2. Resolution 204—The bio-solids facility to upgrade the bio-solids facility and to reimburse the sanitary district.
3. Resolution 202—Cahall subdivision for failing septic system.
4. Resolution 201—Thornton Road project to secure funding for a force main to serve existing failing septic systems.

The Easton Airport project applied for rural funding in 2009. Total project costs were estimated at \$550,000 but came in under \$300,000; financing would be provided by the USDA's Rural Development agency at an interest rate of 4% over 30 years.

The bio-solids facility upgrade, currently receives septage from Talbot and Caroline County. Water and solids are processed from septic tanks and then applied to the surrounding fields by spray irrigation. This project will expand the system's treatment tanks and construct a sludge drying enclosure to dewater the grease, and a backup system. The total cost would be \$5,975,000 with an interest rate of 1.75% over 30 years. County Council approved letter of intent and loan agreement.

Resolution No. 202, the Cahall lot at the corner of Aveley Farm Road. Mr. Clarke stated that the proposed project appears to be the only feasible approach for the sewage problem except pump and haul. This is consistent with force main policy adopted in 2010. The Cahalls would have to pay all costs of tying in.

Commissioner Hughes stated this project is consistent with the draft sewer access policies being considered by the Ad Hoc Committee for village growth and sewer access. The homeowner will be required to sign a binding agreement limiting flow to 125 gallons a day and will not be used to enlarge expand or intensify existing structure or uses without amendment to the resolution.

Resolution 201 went to state and received approval to increase funding for this project to upgrade failing septic systems. The County will work with each property owner to tie into system. Each property owner would be eligible for \$20,000.00 grant to abandon their septic system and connect to the wastewater treatment system for the costs of connection charge, adding a pump and any electrical costs. The amendment would reclassify the area as an S1, immediate service area but would not require people to tie in at this time. The County would act as general contractor, put in back force main. Property owners would contract to install their individual tank. The County will buy pumps, tanks, etc. in bulk thereby reducing costs. Commissioner Hughes asked if any work property owner does on their own must meet specifications, Mr. Clarke responded that such work must meet project specifications. Commissioner Hughes clarified that the definition of eligible property is the state definition and that it puts a cap on eligibility. Mr. Clarke agreed.

Brenda Latka, who owns one of the undeveloped lots in Thornton, expressed concern that the project would encourage development in Thornton. Commissioner Hughes stated he wanted to try and provide public sewer to existing properties with marginal or failing systems. That in no way makes development more likely. It has been his aim with regard to sewer access for sewer lines put in the 1980s and 1990s for the express purpose of providing sewer access for improving water quality and not opening up large areas for development. Commissioner Sullivan stated the goal is to improve water quality and not encourage subdivision.

Commissioner Sullivan moved to recommend to the County Council to approve Resolution No. 203 to amend the *Talbot County Comprehensive Water and Sewerage Plan* to add a new capital project to upgrade the Town of Easton's wastewater system to replace the existing pump station at the Easton Airport with a gravity sewer line, and that the Planning Commission finds it consistent with the County's comprehensive plan. Commissioner Trax seconded the motion. The motion carried unanimously.

Commissioner Boicourt moved to recommend to the County Council to approve Resolution No. 204 to amend the *Talbot County Comprehensive Water and Sewerage Plan* to add a new capital project to upgrade the Talbot County Bio-Solids Facility; the Planning Commission finds it consistent with the comprehensive plan. Commissioner Sullivan seconded the motion. The motion carried unanimously.

Resolution 202 Commissioner Boicourt moved to recommend to the County Council to approve Resolution No. 202 to amend the *Talbot County Comprehensive Water and Sewerage Plan* to reclassify and remap Tax Map 33, Parcel 144, Lot 17, Located at 8349 Aveley Farm Road, Easton, Maryland, along with the change to line 47 to simplex pumping operation, the Planning

Commission finds it consistent with the comprehensive plan. Commissioner Trax seconded the motion. The motion carried unanimously.

Resolution 201 Commissioner Sullivan moved to recommend to the County Council to approve Resolution No. 201 to amend the *Talbot County Comprehensive Water and Sewerage Plan* to reclassify and remap 56 existing lots along all or parts of Thorneton Road, Chance Farm Road and Edge Creek Road, near the Village of Royal Oak, Maryland, the Planning Commission finds it consistent with the comprehensive plan. Commissioner Boicourt seconded the motion. The motion carried unanimously.

- g. Talbot County, Recommendation to County Council—Planning Commission Bylaws—Mary Kay Verdery, Assistant Planning Officer.

Ms. Verdery presented the final revisions to the Planning Commission’s Bylaws and introduced Mike Pullen, County Attorney to clarify some of the outstanding issues. Commissioner Hughes asked for a clarification of when a person is considered to have participated in a proceeding—“participation”. Mr. Pullen stated there was a longstanding definition, any position you take, written or oral during the process, creates standing of appeal, simply attending and not speaking would not yield standing, or signing a sign in sheet would not result in standing.

Ms. Verdery raised the question in the last meeting about Section 11.C. regarding the written opinion. Commissioner Hughes asked to what extent the Commission can include its unstated decision rationale. Mr. Pullen stated there is much agreed on that is not expressed during a meeting. The decision should and can include those items so the record includes the full justification and background for a decision. When a finding of fact is prepared on behalf of the County he makes certain everything that supports the finding of fact is included.

Commissioner Hughes asked if at a subsequent meeting for findings of fact can staff or public have further input? Mr. Pullen stated that staff can, but the public record is closed. Others can submit suggested findings of fact but it is up to the Commission whether they accept any or all of it.

Commissioner Hughes asked if a minority opinion would be included in the findings of fact; Mr. Pullen stated that it should be included.

Commissioner Boicourt moved to adopt the Planning Commission Bylaws as outlined in the March 6, 2013 draft with the exception of Line 115, Section 11, Item D., adding “solely” and changing “evidence” to “information”; seconded by Commissioner Trax. The motion carried unanimously.

5. Discussions Items

- a. Piers—Sandy Coyman, Planning Officer

374 Ms. Verdery discussed the history of zoning ordinance of piers. There are
375 currently requests for amendments, additions and new features beyond the 150 ft
376 length. A conflict exists between County and state law; County law includes the
377 area of language as to what was included in expansion. There were conflicts in the
378 law about the 250 square foot platform limitation because we counted finger
379 piers, state law does not. No new pier or expansion should occur beyond the 150
380 foot length including pilings, finger piers, catwalks, boatlifts. We do allow for the
381 in-kind replacement of a pier that exceeds the 150 foot length. The question is
382 what is the footprint of a pier?
383

384 Commissioner Hughes stated that the pier issue had been fully vetted in the past.
385 Mr. Coyman summarized the question for today which involves a floating kayak
386 platform for a community pier. The existing pier is a legal nonconforming pier.
387 The kayak launch would increase the area, but would be located within an
388 existing slip. The question is whether this is an expansion of the existing pier.
389

390 Hamilton Cove, Martingham representative, Ed Bolinsky explained that they have
391 a pier which serves 28 townhouses. Before they came to this point they had the
392 Corps of Engineers, Department of Natural Resources and Talbot County approve
393 permits. The problem is rip rap and beach grasses, so there are safety issues when
394 someone wants to take out a canoe, especially during low tide, there is a three or
395 more foot tidal difference.
396

397 The possibility of converting one of the existing finger piers in place of using a
398 floating kayak platform was discussed.
399

400 Commissioner Hughes summed it up that in order to add the floating kayak
401 platform to the community pier Hamilton Cove would have to go through the
402 Board of Appeals for a variance to the total square footage platform requirement,
403 and an amendment to their special exception. The Commission also discussed the
404 possibility of submitting a text amendment to give community piers more leeway
405 in some of the regulations in order to encourage community piers and that they
406 would support such an amendment.
407

- 408 b. Critical Area Staff Blue Ribbon Committee—Mr. Coyman stated before the
409 Committee can get on the Critical Area Agenda they must get a formal proposal
410 from the County Council. The Committee is currently creating a local program
411 which will come before the Planning Commission for input. Commissioner
412 Boicourt expressed the desire to have the Planning Commission directly involved
413 in this process, and it would be more beneficial if the task force made
414 recommendation to the Planning Commission and then the Planning Commission
415 went to the Critical Area Commission.
416

- 417 c. St. Michaels Tier Conflict Status—Sandy Coyman, Planning Officer.

418
419 Mr. Coyman presented the Planning Commission recommendations and
420 forwarded them to the County Council. Council has not yet scheduled the
421 meeting.
422

423 **6. `Staff Matters**

- 424 a. Floodplain Ordinance and Digital Flood Insurance Rate (Dfirms) Maps—Ms.
425 Verdery stated the Floodplain Ordinance and Dfirms went to the County Council
426 on March 26, 2013 for public hearing, they moved it to third reader, voted on it
427 and it passed unanimously. The ordinance and maps will become effective on
428 August 5, 2013.
429
430 b. Ms. Verdery stated we received our Critical Area letter; official updated maps
431 will be put online. Ms. Verdery will send the access information around and put it
432 on the website so the community knows.
433
434 c. Forestry recommendations – County Council informally accepted right to farm
435 and forest as a right. Also accepted Planning Commission recommendation for a
436 sign. The County Council desires the forest harvest sign be mandatory.
437
438 d. Village Meetings—Staff noted the front page newspaper coverage of the
439 announcement of the three public meetings. At the meetings the zoning use
440 districts passed by County Council will be discussed. Draft maps will be
441 presented at the public meetings. The Ad Hoc committee recommendations about
442 density and sewer extension policies will also be introduced. The meeting results
443 will be reviewed with the Planning Commission and the County Council.
444

445 **7. WorkSessions**

446 **8. Commission Matters**

447 **9. Adjournment**—Commissioner Hughes adjourned the meeting at 12:12 a.m.

448
449 N:\Planning & Zoning\Planning Commission\Minutes Planning Commission\2013\April\Final\April 3 Final Decision Summary.docx